

HOUSE BILL No. 1401

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-11-5; IC 35-50-6-5.

Synopsis: Disciplinary action for filing civil lawsuits. Prohibits the department of correction from imposing disciplinary action on a committed person who files a civil lawsuit. Provides that a person may not lose credit time for filing a frivolous, an unreasonable, or a groundless civil lawsuit.

Effective: July 1, 2003.

Smith V

January 14, 2003, read first time and referred to Committee on Human Affairs.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1401

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-11-5-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The department shall
3 adopt rules for the maintenance of order and discipline among
4 committed persons. These rules must describe the conduct for which
5 disciplinary action may be imposed, the type of disciplinary action that
6 may be taken, and the disciplinary procedure to be followed. **The**
7 **department may not adopt a rule that imposes disciplinary action**
8 **on a committed person for filing a civil lawsuit.** These rules shall be
9 made available to all committed persons. The disciplinary action
10 imposed must be proportionate to the seriousness of the violation. For
11 purposes of IC 4-22-2, the term "rule" as used in this section relates
12 solely to internal policy and procedure not having the force of law.

13 SECTION 2. IC 11-11-5-4, AS AMENDED BY P.L.43-2002,
14 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2003]: Sec. 4. The department may not impose the following
16 as disciplinary action:

17 (1) Corporal punishment.



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(2) Confinement without an opportunity for at least one (1) hour of exercise five (5) days each week outside of immediate living quarters, unless the department finds and documents that this opportunity will jeopardize the physical safety of the offender, or others, or the security of the facility or program.

(3) A substantial change in heating, lighting, or ventilation.

(4) Restrictions on clothing, bedding, mail, visitation, reading and writing materials, or the use of hygienic facilities, except for abuse of these.

(5) Restrictions on:

(A) medical and dental care;

(B) access to courts; ~~unless a committed person has brought a claim in a state or an administrative court, that the court determines to be frivolous, unreasonable, or groundless;~~

(C) access to legal counsel, government officials, or grievance proceedings; and

(D) access to personal legal papers and legal research materials.

(6) A deviation from the diet provided to other committed persons in that facility or program.

(7) Extra work exceeding a total of twenty (20) hours for one (1) rule violation, or exceeding four (4) hours in any twenty-four (24) hour period.

SECTION 3. IC 35-50-6-5, AS AMENDED BY P.L.90-2000, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time ~~he the person~~ has earned for any of the following:

(1) A violation of one (1) or more rules of the department of correction.

(2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.

(3) A violation of one (1) or more rules or conditions of a community transition program.

~~(4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.~~

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, ~~he the person~~ may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the



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1 person must be granted a hearing to determine ~~his~~ **the person's** guilt
2 or innocence and, if found guilty, whether deprivation of earned credit
3 time is an appropriate disciplinary action for the violation. In
4 connection with the hearing, the person is entitled to the procedural
5 safeguards listed in section 4(c) of this chapter. The person may waive
6 ~~his~~ **the person's** right to the hearing.

7 (c) Any part of the credit time of which a person is deprived under
8 this section may be restored.

9 **SECTION 4. [EFFECTIVE JULY 1, 2003] All rules adopted by**
10 **the department of correction under IC 11-11-5-2 that impose**
11 **disciplinary action on a committed person for filing a civil lawsuit**
12 **are void. To the extent these rules are published in the Indiana**
13 **Administrative Code, the publisher of the Indiana Administrative**
14 **Code shall remove the rules from the Indiana Administrative Code.**

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